

STATE OF MICHIGAN  
COURT OF APPEALS

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*In re* TAYLOR, Minors.

UNPUBLISHED  
August 9, 2016

No. 331526  
Berrien Circuit Court  
Family Division  
LC No. 2014-000087-NA

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Before: SERVITTO, P.J., and MARKEY and GLEICHER, JJ.

PER CURIAM.

The circuit court terminated respondent-mother’s parental rights to her young children, KT and JT, based on her failure to address her mental health issues, to recognize and address her children’s special needs, and to provide a safe and stable home for the children. As respondent exhibited no benefit from extended services, we affirm.

I. BACKGROUND

Respondent gave birth to her son, KT, on September 15, 2011. By the age of two, KT displayed development delays, including difficulties with communication, expressing his thoughts, cognitive thinking, and anger. Respondent failed to follow through with special education referrals. Respondent gave birth to her daughter, JT, on September 18, 2013. JT was born with “Dandy-Walker Variant, Hydrocephalus and Macrocephaly,” as well as “a cranial deformity on the right side of her brain.” JT has development delays with fine and gross motor and cognitive skills. Respondent neglected JT’s medical needs by failing to follow through with a neurologist referral.

Likely affecting her ability to address her children’s special needs, respondent suffers from mental illness and carries diagnoses of depressive, psychotic, and borderline personality disorders. Respondent claims that she has treated with the same psychologist “for most of her life and saw her daily.” Respondent was not compliant with taking her medications, however. Moreover, caseworkers later reported that the counseling arrangement was insufficient to meet respondent’s therapeutic needs. The psychologist apparently did not understand the caseworkers’ directives regarding the areas of deficiency in which respondent needed to show progress. The psychologist also did not provide therapeutic goals for respondent to achieve. The Department of Health and Human Services (DHHS) assisted respondent in locating alternative treatment to comply with her case service plan, but respondent resisted.

Ultimately, the court removed the children from respondent's care on an emergency basis on June 12, 2014. In the months leading up to that decision, respondent exhibited bizarre behavior that endangered her children. In November 2013, respondent was taken into custody by law enforcement and JT was briefly removed from her care. At the time, respondent was attempting to walk from Kalamazoo to Benton Harbor with two-month-old JT in below-freezing temperatures. In October 2013, respondent telephoned law enforcement and reported that she had walked into the woods with her children without proper supplies to care for them and had become lost. Officers spent several hours searching the woods, only to learn that this was a false report and respondent was found at a friend's home. On January 16, 2014, respondent engaged in a physical altercation with a boyfriend in the presence of the minor children and a Family First worker. Respondent was then on the verge of eviction because the police had been summoned to her residence on several occasions. And when the caseworker took the children on June 11, their hair was matted and they were filthy.

In the following months, respondent did little to comply with her case service plan. She missed approximately half of her supervised parenting time sessions. When she did visit the children, her behavior was inappropriate. Respondent focused her attention on KT, but she could not control his behavior. She expressed no interest in learning how to interact with JT and rejected opportunities to learn JT's physical therapy exercises. Based on her poor attendance, respondent was terminated from a parenting coach program. After several false starts, respondent finally completed a parenting class. However, respondent demonstrated no improvement in her parenting skills during subsequent visits. Respondent also showed no improvement with regard to her mental health, and continued to be noncompliant with her medication regime by the time of termination. Further, respondent lived transiently, moving from place to place and failing to accumulate any furniture for her home. She went months without heat and electricity, yet refused to follow through with applications for emergency assistance. Finally, respondent became pregnant again, failed to secure prenatal care, and hid her pregnancy from the caseworkers until a month before the child was born.<sup>1</sup>

By the time of the termination hearing, the children were in separate placements. KT's father had secured adequate housing at some point, and the DHHS placed the boy in his care. JT was in nonrelative foster care. Despite KT's relative placement, the DHHS sought termination of respondent's rights to both children. The court ultimately agreed and respondent now appeals.

## II. STATUTORY GROUNDS

Respondent first challenges the circuit court's determination that statutory grounds supported termination of her parental rights. Pursuant to MCL 712A.19b(3), a circuit court "may terminate a parent's parental rights to a child if the court finds, by clear and convincing

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<sup>1</sup> The DHHS took this child, DT, into custody immediately upon his birth. The court terminated respondent's parental rights in a separate action following termination of her rights in this case. Respondent appealed that termination, and this Court affirmed by order after counsel filed a motion to withdraw based on the frivolity of the appeal. See *In re D Taylor Minor*, unpublished order of the Court of Appeals, entered June 17, 2016 (Docket No. 332211).

evidence” that at least one statutory ground has been proven. The petitioner bears the burden of proving that ground. MCR 3.977(A)(3); *In re Trejo*, 462 Mich 341, 350; 612 NW2d 407 (2000). We review a circuit court’s factual finding that a statutory termination ground has been established for clear error. *In re Rood*, 483 Mich 73, 90-91; 763 NW2d 587 (2009). “A finding of fact is clearly erroneous if the reviewing court has a definite and firm conviction that a mistake has been committed, giving due regard to the trial court’s special opportunity to observe the witnesses.” *In re Moss*, 301 Mich App 76, 80; 836 NW2d 182 (2013) (quotation marks and citation omitted). “Clear error signifies a decision that strikes us as more than just maybe or probably wrong.” *In re Williams*, 286 Mich App 253, 271; 779 NW2d 286 (2009).

The circuit court terminated respondent’s parental rights under MCL 712A.19b(3)(c)(i), (g), and (j), which provide:

(c) The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds either of the following:

(i) The conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child’s age.

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(g) The parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child’s age.

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(j) There is a reasonable likelihood, based on the conduct or capacity of the child’s parent, that the child will be harmed if he or she is returned to the home of the parent.

The circuit court’s determinations were supported by clear and convincing evidence. First, the conditions that led to adjudication continued to exist and there was little likelihood that respondent could rectify those conditions within a reasonable time, supporting termination under factor (c)(i). Despite that she had been in counseling her entire life, respondent made no headway in addressing her mental health concerns during the proceedings. She still had not begun treatment with a goal-oriented therapist or complied with her medication plan. Respondent had not shown improvement with her parenting skills, either. She rarely attended her parenting time sessions, despite being provided gas cards and bus tokens to assist her travel. At the visits, respondent could not control the children. Moreover, she attended only two visits between August and December 2015, and completely stopped communicating with the caseworkers. In relation to medical neglect, respondent continued to demonstrate no understanding of her children’s special needs and declined opportunities to learn. To her credit, respondent did complete parenting classes; however, the caseworkers observed no benefit from the classes in her interactions with the children. Given that respondent had been provided with

nearly two years of services and achieved no benefit, the court did not err in finding that respondent would be unable to achieve reunification within a reasonable time.

Clear and convincing evidence also supported the circuit court's conclusion that respondent failed to provide proper care and custody to the children and would be unable to do so within a reasonable time as required by factor (g). Respondent's unaddressed mental health issues affected her ability to maintain a stable home and effectively care for her children. Respondent inadequately addressed these concerns during the proceedings. As a result, she was still unable to care for the children by the time of the termination hearing. Again, given the length of time respondent has been in treatment without benefit, the evidence supports that she will be unable to provide proper care and custody at any point in the future.

Termination was also supportable under factor (j). Respondent had placed her children in physical danger on several occasions before the DHHS removed them from her care. Mental illness led respondent to make irrational decisions, anger easily, and act out violently. Without proper treatment and compliance with a medication regime, respondent has not rectified this condition and will be unable to do so within a reasonable time. Accordingly, we discern no error in the circuit court's conclusion that more than one statutory ground supported termination.

### III. BEST INTERESTS

Respondent also contends that termination of her parental rights was contrary to the children's best interests. "Once a statutory ground for termination has been proven, the trial court must find that termination is in the child's best interests before it can terminate parental rights." *In re Olive/Metts*, 297 Mich App 35, 40; 823 NW2d 144 (2012), citing MCL 712A.19b(5). "[W]hether termination of parental rights is in the best interests of the child must be proven by a preponderance of the evidence." *Moss*, 301 Mich App at 90. The lower court should weigh all the evidence available to it in determining the child's best interests. *Trejo*, 462 Mich at 356-357. Relevant factors in this consideration include "the child's bond to the parent, the parent's parenting ability, the child's need for permanency, stability, and finality, and the advantages of a foster home over the parent's home." *Olive/Metts*, 297 Mich App at 41-42 (citations omitted). Additionally, "a child's placement with relatives weighs against termination," and accordingly, "the fact that a child is living with relatives when the case proceeds to termination is a factor to be considered in determining whether termination is in the child's best interests." *Id.* at 43. In considering the best interests of the children, the court "has a duty to decide the best interests of each child individually." *Id.* at 42.

Termination was in both KT's and JT's best interests. The evidence showed that respondent was unable to properly care for either child. She lacked any understanding of either child's special needs. Although KT reported that he missed his mother, the caseworkers observed no bond between respondent and JT. The court emphasized the length of time the children had been in care with little to no improvement in their mother's parenting ability. Given their young ages, the court determined that they could wait no longer for permanency and stability. The court acknowledged that KT was in the care of his father, but found that respondent's continuing instability and failure to address her mental health issues would place KT in a perilous situation were he in her care. Therefore, the court found termination necessary. We find no fault in that decision.

We affirm.

/s/ Deborah A. Servitto  
/s/ Jane E. Markey  
/s/ Elizabeth L. Gleicher